

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 24-3 and by adding Section 24-3.7 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful Sale of Firearms.

8 (A) A person commits the offense of unlawful sale of  
9 firearms when he or she knowingly does any of the following:

10 (a) Sells or gives any firearm of a size which may be  
11 concealed upon the person to any person under 18 years of  
12 age.

13 (b) Sells or gives any firearm to a person under 21  
14 years of age who has been convicted of a misdemeanor other  
15 than a traffic offense or adjudged delinquent.

16 (c) Sells or gives any firearm to any narcotic addict.

17 (d) Sells or gives any firearm to any person who has  
18 been convicted of a felony under the laws of this or any  
19 other jurisdiction.

20 (e) Sells or gives any firearm to any person who has  
21 been a patient in a mental hospital within the past 5  
22 years.

23 (f) Sells or gives any firearms to any person who is

1           mentally retarded.

2           (g) Delivers any firearm of a size which may be  
3           concealed upon the person, incidental to a sale, without  
4           withholding delivery of such firearm for at least 72 hours  
5           after application for its purchase has been made, or  
6           delivers any rifle, shotgun or other long gun, or a stun  
7           gun or taser, incidental to a sale, without withholding  
8           delivery of such rifle, shotgun or other long gun, or a  
9           stun gun or taser for at least 24 hours after application  
10          for its purchase has been made. However, this paragraph (g)  
11          does not apply to: (1) the sale of a firearm to a law  
12          enforcement officer if the seller of the firearm knows that  
13          the person to whom he or she is selling the firearm is a  
14          law enforcement officer or the sale of a firearm to a  
15          person who desires to purchase a firearm for use in  
16          promoting the public interest incident to his or her  
17          employment as a bank guard, armed truck guard, or other  
18          similar employment; (2) a mail order sale of a firearm to a  
19          nonresident of Illinois under which the firearm is mailed  
20          to a point outside the boundaries of Illinois; (3) the sale  
21          of a firearm to a nonresident of Illinois while at a  
22          firearm showing or display recognized by the Illinois  
23          Department of State Police; or (4) the sale of a firearm to  
24          a dealer licensed as a federal firearms dealer under  
25          Section 923 of the federal Gun Control Act of 1968 (18  
26          U.S.C. 923). For purposes of this paragraph (g),

1 "application" means when the buyer and seller reach an  
2 agreement to purchase a firearm.

3 (h) While holding any license as a dealer, importer,  
4 manufacturer or pawnbroker under the federal Gun Control  
5 Act of 1968, manufactures, sells or delivers to any  
6 unlicensed person a handgun having a barrel, slide, frame  
7 or receiver which is a die casting of zinc alloy or any  
8 other nonhomogeneous metal which will melt or deform at a  
9 temperature of less than 800 degrees Fahrenheit. For  
10 purposes of this paragraph, (1) "firearm" is defined as in  
11 the Firearm Owners Identification Card Act; and (2)  
12 "handgun" is defined as a firearm designed to be held and  
13 fired by the use of a single hand, and includes a  
14 combination of parts from which such a firearm can be  
15 assembled.

16 (i) Sells or gives a firearm of any size to any person  
17 under 18 years of age who does not possess a valid Firearm  
18 Owner's Identification Card.

19 (j) Sells or gives a firearm while engaged in the  
20 business of selling firearms at wholesale or retail without  
21 being licensed as a federal firearms dealer under Section  
22 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
23 In this paragraph (j):

24 A person "engaged in the business" means a person who  
25 devotes time, attention, and labor to engaging in the  
26 activity as a regular course of trade or business with the

1 principal objective of livelihood and profit, but does not  
2 include a person who makes occasional repairs of firearms  
3 or who occasionally fits special barrels, stocks, or  
4 trigger mechanisms to firearms.

5 "With the principal objective of livelihood and  
6 profit" means that the intent underlying the sale or  
7 disposition of firearms is predominantly one of obtaining  
8 livelihood and pecuniary gain, as opposed to other intents,  
9 such as improving or liquidating a personal firearms  
10 collection; however, proof of profit shall not be required  
11 as to a person who engages in the regular and repetitive  
12 purchase and disposition of firearms for criminal purposes  
13 or terrorism.

14 (k) Sells or transfers ownership of a firearm to a  
15 person who does not display to the seller or transferor of  
16 the firearm a currently valid Firearm Owner's  
17 Identification Card that has previously been issued in the  
18 transferee's name by the Department of State Police under  
19 the provisions of the Firearm Owners Identification Card  
20 Act. This paragraph (k) does not apply to the transfer of a  
21 firearm to a person who is exempt from the requirement of  
22 possessing a Firearm Owner's Identification Card under  
23 Section 2 of the Firearm Owners Identification Card Act.  
24 For the purposes of this Section, a currently valid Firearm  
25 Owner's Identification Card means (i) a Firearm Owner's  
26 Identification Card that has not expired or (ii) if the

1 transferor is licensed as a federal firearms dealer under  
2 Section 923 of the federal Gun Control Act of 1968 (18  
3 U.S.C. 923), an approval number issued in accordance with  
4 Section 3.1 of the Firearm Owners Identification Card Act  
5 shall be proof that the Firearm Owner's Identification Card  
6 was valid.

7 (B) Paragraph (h) of subsection (A) does not include  
8 firearms sold within 6 months after enactment of Public Act  
9 78-355 (approved August 21, 1973, effective October 1, 1973),  
10 nor is any firearm legally owned or possessed by any citizen or  
11 purchased by any citizen within 6 months after the enactment of  
12 Public Act 78-355 subject to confiscation or seizure under the  
13 provisions of that Public Act. Nothing in Public Act 78-355  
14 shall be construed to prohibit the gift or trade of any firearm  
15 if that firearm was legally held or acquired within 6 months  
16 after the enactment of that Public Act.

17 (C) Sentence.

18 (1) Any person convicted of unlawful sale of firearms  
19 in violation of paragraph ~~any of paragraphs~~ (c), (e), (f),  
20 (g), or through (h) of subsection (A) commits a Class 4  
21 felony.

22 (2) Any person convicted of unlawful sale of firearms  
23 in violation of paragraph (b) or (i) of subsection (A)  
24 commits a Class 3 felony.

25 (3) Any person convicted of unlawful sale of firearms  
26 in violation of paragraph (a) of subsection (A) commits a

1 Class 2 felony.

2 (4) Any person convicted of unlawful sale of firearms  
3 in violation of paragraph (a), (b), or (i) of subsection  
4 (A) in any school, on the real property comprising a  
5 school, within 1,000 feet of the real property comprising a  
6 school, at a school related activity, or on or within 1,000  
7 feet of any conveyance owned, leased, or contracted by a  
8 school or school district to transport students to or from  
9 school or a school related activity, regardless of the time  
10 of day or time of year at which the offense was committed,  
11 commits a Class 1 felony. Any person convicted of a second  
12 or subsequent violation of unlawful sale of firearms in  
13 violation of paragraph (a), (b), or (i) of subsection (A)  
14 in any school, on the real property comprising a school,  
15 within 1,000 feet of the real property comprising a school,  
16 at a school related activity, or on or within 1,000 feet of  
17 any conveyance owned, leased, or contracted by a school or  
18 school district to transport students to or from school or  
19 a school related activity, regardless of the time of day or  
20 time of year at which the offense was committed, commits a  
21 Class 1 felony for which the sentence shall be a term of  
22 imprisonment of no less than 5 years and no more than 15  
23 years.

24 (5) Any person convicted of unlawful sale of firearms  
25 in violation of paragraph (a) or (i) of subsection (A) in  
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency  
2 as part of a scattered site or mixed-income development, in  
3 a public park, in a courthouse, on residential property  
4 owned, operated, or managed by a public housing agency or  
5 leased by a public housing agency as part of a scattered  
6 site or mixed-income development, on the real property  
7 comprising any public park, on the real property comprising  
8 any courthouse, or on any public way within 1,000 feet of  
9 the real property comprising any public park, courthouse,  
10 or residential property owned, operated, or managed by a  
11 public housing agency or leased by a public housing agency  
12 as part of a scattered site or mixed-income development  
13 commits a Class 2 felony.

14 (6) Any person convicted of unlawful sale of firearms  
15 in violation of paragraph (j) of subsection (A) commits a  
16 Class A misdemeanor. A second or subsequent violation is a  
17 Class 4 felony.

18 (7) Any person convicted of unlawful sale of firearms  
19 in violation of paragraph (k) of subsection (A) commits a  
20 Class 4 felony. A third or subsequent conviction for a  
21 violation of paragraph (k) of subsection (A) is a Class 1  
22 felony.

23 (8) A person 18 years of age or older convicted of  
24 unlawful sale of firearms in violation of paragraph (a) or  
25 (i) of subsection (A), when the firearm that was sold or  
26 given to another person under 18 years of age was used in

1 the commission of or attempt to commit a forcible felony,  
2 shall be fined or imprisoned, or both, not to exceed the  
3 maximum provided for the most serious forcible felony so  
4 committed or attempted by the person under 18 years of age  
5 who was sold or given the firearm.

6 (9) Any person convicted of unlawful sale of firearms  
7 in violation of paragraph (d) of subsection (A) commits a  
8 Class 3 felony.

9 (D) For purposes of this Section:

10 "School" means a public or private elementary or secondary  
11 school, community college, college, or university.

12 "School related activity" means any sporting, social,  
13 academic, or other activity for which students' attendance or  
14 participation is sponsored, organized, or funded in whole or in  
15 part by a school or school district.

16 (E) A prosecution for a violation of paragraph (k) of  
17 subsection (A) of this Section may be commenced within 6 years  
18 after the commission of the offense. A prosecution for a  
19 violation of this Section other than paragraph (g) of  
20 subsection (A) of this Section may be commenced within 5 years  
21 after the commission of the offense defined in the particular  
22 paragraph.

23 (Source: P.A. 94-6, eff. 1-1-06; 94-284, eff. 7-21-05; 95-331,  
24 eff. 8-21-07; 95-735, eff. 7-16-08.)

25 (720 ILCS 5/24-3.7 new)

1       Sec. 24-3.7. Use of a stolen firearm in the commission of  
2 an offense.

3       (a) A person commits the offense of use of a stolen firearm  
4 in the commission of an offense when he or she knowingly uses a  
5 stolen firearm in the commission of any offense and the person  
6 knows that the firearm was stolen.

7       (b) Sentence. Use of a stolen firearm in the commission of  
8 an offense is a Class 2 felony.

9       Section 10. The Unified Code of Corrections is amended by  
10 changing Section 5-8-4 as follows:

11       (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

12       Sec. 5-8-4. Concurrent and Consecutive Terms of  
13 Imprisonment.

14       (a) When multiple sentences of imprisonment are imposed on  
15 a defendant at the same time, or when a term of imprisonment is  
16 imposed on a defendant who is already subject to sentence in  
17 this State or in another state, or for a sentence imposed by  
18 any district court of the United States, the sentences shall  
19 run concurrently or consecutively as determined by the court.  
20 When one of the offenses for which a defendant was convicted  
21 was a violation of Section 32-5.2 of the Criminal Code of 1961  
22 and the offense was committed in attempting or committing a  
23 forcible felony, the court may impose consecutive sentences.  
24 When a term of imprisonment is imposed on a defendant by an

1 Illinois circuit court and the defendant is subsequently  
2 sentenced to a term of imprisonment by another state or by a  
3 district court of the United States, the Illinois circuit court  
4 which imposed the sentence may order that the Illinois sentence  
5 be made concurrent with the sentence imposed by the other state  
6 or district court of the United States. The defendant must  
7 apply to the circuit court within 30 days after the defendant's  
8 sentence imposed by the other state or district of the United  
9 States is finalized. The court shall impose consecutive  
10 sentences if:

11 (i) one of the offenses for which defendant was  
12 convicted was first degree murder or a Class X or Class 1  
13 felony and the defendant inflicted severe bodily injury, or

14 (ii) the defendant was convicted of a violation of  
15 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of  
16 1961, or

17 (iii) the defendant was convicted of armed violence  
18 based upon the predicate offense of solicitation of murder,  
19 solicitation of murder for hire, heinous battery,  
20 aggravated battery of a senior citizen, criminal sexual  
21 assault, a violation of subsection (g) of Section 5 of the  
22 Cannabis Control Act, cannabis trafficking, a violation of  
23 subsection (a) of Section 401 of the Illinois Controlled  
24 Substances Act, controlled substance trafficking involving  
25 a Class X felony amount of controlled substance under  
26 Section 401 of the Illinois Controlled Substances Act, a

1 violation of the Methamphetamine Control and Community  
2 Protection Act, calculated criminal drug conspiracy, or  
3 streetgang criminal drug conspiracy, or

4 (iv) the defendant was convicted of the offense of  
5 leaving the scene of a motor vehicle accident involving  
6 death or personal injuries under Section 11-401 and either:  
7 (A) aggravated driving under the influence of alcohol,  
8 other drug or drugs, or intoxicating compound or compounds,  
9 or any combination thereof under Section 11-501 of the  
10 Illinois Vehicle Code, or (B) reckless homicide under  
11 Section 9-3 of the Criminal Code of 1961, or both an  
12 offense described in subdivision (A) and an offense  
13 described in subdivision (B), or

14 (v) the defendant was convicted of a violation of  
15 Section 9-3.1 (concealment of homicidal death) or Section  
16 12-20.5 (dismembering a human body) of the Criminal Code of  
17 1961, or

18 (vi) the defendant was convicted of a violation of  
19 Section 24-3.7 (use of a stolen firearm in the commission  
20 of an offense) of the Criminal Code of 1961,

21 in which event the court shall enter sentences to run  
22 consecutively. Sentences shall run concurrently unless  
23 otherwise specified by the court.

24 (b) Except in cases where consecutive sentences are  
25 mandated, the court shall impose concurrent sentences unless,  
26 having regard to the nature and circumstances of the offense

1 and the history and character of the defendant, it is of the  
2 opinion that consecutive sentences are required to protect the  
3 public from further criminal conduct by the defendant, the  
4 basis for which the court shall set forth in the record.

5 (c) (1) For sentences imposed under law in effect prior to  
6 February 1, 1978 the aggregate maximum of consecutive  
7 sentences shall not exceed the maximum term authorized  
8 under Section 5-8-1 for the 2 most serious felonies  
9 involved. The aggregate minimum period of consecutive  
10 sentences shall not exceed the highest minimum term  
11 authorized under Section 5-8-1 for the 2 most serious  
12 felonies involved. When sentenced only for misdemeanors, a  
13 defendant shall not be consecutively sentenced to more than  
14 the maximum for one Class A misdemeanor.

15 (2) For sentences imposed under the law in effect on or  
16 after February 1, 1978, the aggregate of consecutive  
17 sentences for offenses that were committed as part of a  
18 single course of conduct during which there was no  
19 substantial change in the nature of the criminal objective  
20 shall not exceed the sum of the maximum terms authorized  
21 under Section 5-8-2 for the 2 most serious felonies  
22 involved, but no such limitation shall apply for offenses  
23 that were not committed as part of a single course of  
24 conduct during which there was no substantial change in the  
25 nature of the criminal objective. When sentenced only for  
26 misdemeanors, a defendant shall not be consecutively

1 sentenced to more than the maximum for one Class A  
2 misdemeanor.

3 (d) An offender serving a sentence for a misdemeanor who is  
4 convicted of a felony and sentenced to imprisonment shall be  
5 transferred to the Department of Corrections, and the  
6 misdemeanor sentence shall be merged in and run concurrently  
7 with the felony sentence.

8 (e) In determining the manner in which consecutive  
9 sentences of imprisonment, one or more of which is for a  
10 felony, will be served, the Department of Corrections shall  
11 treat the offender as though he had been committed for a single  
12 term with the following incidents:

13 (1) the maximum period of a term of imprisonment shall  
14 consist of the aggregate of the maximums of the imposed  
15 indeterminate terms, if any, plus the aggregate of the  
16 imposed determinate sentences for felonies plus the  
17 aggregate of the imposed determinate sentences for  
18 misdemeanors subject to paragraph (c) of this Section;

19 (2) the parole or mandatory supervised release term  
20 shall be as provided in paragraph (e) of Section 5-8-1 of  
21 this Code for the most serious of the offenses involved;

22 (3) the minimum period of imprisonment shall be the  
23 aggregate of the minimum and determinate periods of  
24 imprisonment imposed by the court, subject to paragraph (c)  
25 of this Section; and

26 (4) the offender shall be awarded credit against the

1           aggregate maximum term and the aggregate minimum term of  
2           imprisonment for all time served in an institution since  
3           the commission of the offense or offenses and as a  
4           consequence thereof at the rate specified in Section 3-6-3  
5           of this Code.

6           (f) A sentence of an offender committed to the Department  
7           of Corrections at the time of the commission of the offense  
8           shall be served consecutive to the sentence under which he is  
9           held by the Department of Corrections. However, in case such  
10          offender shall be sentenced to punishment by death, the  
11          sentence shall be executed at such time as the court may fix  
12          without regard to the sentence under which such offender may be  
13          held by the Department.

14          (g) A sentence under Section 3-6-4 for escape or attempted  
15          escape shall be served consecutive to the terms under which the  
16          offender is held by the Department of Corrections.

17          (h) If a person charged with a felony commits a separate  
18          felony while on pre-trial release or in pretrial detention in a  
19          county jail facility or county detention facility, the  
20          sentences imposed upon conviction of these felonies shall be  
21          served consecutively regardless of the order in which the  
22          judgments of conviction are entered.

23          (h-1) If a person commits a battery against a county  
24          correctional officer or sheriff's employee while serving a  
25          sentence or in pretrial detention in a county jail facility,  
26          then the sentence imposed upon conviction of the battery shall

1 be served consecutively with the sentence imposed upon  
2 conviction of the earlier misdemeanor or felony, regardless of  
3 the order in which the judgments of conviction are entered.

4 (i) If a person admitted to bail following conviction of a  
5 felony commits a separate felony while free on bond or if a  
6 person detained in a county jail facility or county detention  
7 facility following conviction of a felony commits a separate  
8 felony while in detention, any sentence following conviction of  
9 the separate felony shall be consecutive to that of the  
10 original sentence for which the defendant was on bond or  
11 detained.

12 (j) If a person is found to be in possession of an item of  
13 contraband, as defined in clause (c)(2) of Section 31A-1.1 of  
14 the Criminal Code of 1961, while serving a sentence in a penal  
15 institution or while in pre-trial detention in a county jail,  
16 the sentence imposed upon conviction for the offense of  
17 possessing contraband in a penal institution shall be served  
18 consecutively to the sentence imposed for the offense in which  
19 the person is serving sentence in the county jail or serving  
20 pretrial detention, regardless of the order in which the  
21 judgments of conviction are entered.

22 (Source: P.A. 94-556, eff. 9-11-05; 94-985, eff. 1-1-07;  
23 95-379, eff. 8-23-07; 95-766, eff. 1-1-09.)